Section 32 Public Housing Homeownership Program

This is an easy-to-follow outline of the basic required components to be addressed in a Section 32 Homeownership (HO) Plan. The HUD Special Applications Center (SAC) must assess the appropriateness of your HO Plan based on how you address each item.

Introduction:

Public Housing Agencies (PHAs) may develop HO projects tailored to meet goals specific for their locality and resident population. The "Guide to Homeownership for PHAs" can be found on HUD's website. Resources found as appendices in the "Guide" provide the necessary tools for budgeting, feasibility, and attorney's certification. The following contains the program-specific requirements.

I. **Section 32 Project Summary**
II. **Homeownership Plan Requirements**
III. **Supporting Documentation**
IV. **Appendix 1: Completeness Review Checklist (separate attachment)**

I. Section 32 Project Summary

(24 CFR Subpart 906, and QHWRA). The final Section 32 rule replaces the Section 5(h) rule.

Overview:

The QHWRA through Section 32 makes Public Housing (PH) dwelling units available for purchase by low-income families. A PHA may:

- Sell all or a portion of a PH development to eligible public or non-PH residents, or
- Provide Capital Fund Program (CFP) assistance to PH families to purchase homes, and
- Provide CFP assistance to acquire homes that will be sold to low-income families.
- Section 3 generates an exception:
  - ✓ Allowing the CFP to be used to acquire units for sale that will not be put under PH ACC contracts.
  - ✓ NA to the use of the to build or substantially rehabilitate units that are *not* PH for sale under Section 32
  - ✓ Such construction and rehabilitation is not covered under this section, but governed by the PH development and modernization regulations.

Section 32 Regulatory Restrictions:

HUD will no longer accept new 5(h) plans. Existing 5(h) programs will continue to be governed by 24 CFR Part 906 dated April 1, 1999, or may be revised in accordance with Section 32. *All citations below for Section 32 below refer to the April 1, 2003 edition of 24 CFR Part 906.*

Eligible Program Activities **- the PHA may:**

- ✓ Sell newly constructed, rehabilitated, or existing public housing units to public housing and other low-income residents. [The PHA must undertake these activities in accordance with 24 CFR 941.]
- ✓ Acquire existing homes using CFP for sale to income-eligible purchasers without adding these units to the ACC.
- ✓ Provide direct financing to purchasers for:
  - o Down-payment assistance,
  - o Closing cost assistance,
  - o Counseling, and
  - o Subordinate mortgages (including a loan-to-purchaser only program).
- ✓ Operate a lease-purchase program for ACC units developed or acquired via any of the above-mentioned methods. *24 CFR Part 906.5*

Purchaser Requirements: The PHA may sell units directly to public housing residents, low-income residents, or to another entity for resale to low-income families (Purchase and Resale Entity). *24 CFR Part 906.11 and 906.13*

Income:

- Public or non-PH residents earning up to 80% AMI are eligible to purchase a home.
- [***Exception***: current PH residents offered the right of first refusal.]
- The applicants monthly payments for mortgage, PITI, maintenance, and other regularly recurring HO costs may not exceed 35% of the applicants adjusted income *(24 CFR 913),* plus any other subsidy used for monthly payments (*24 CFR 906.15a).*

Down-payment: The PHA must establish down-payment requirements and at least 1% of the purchase price must come from the resident's own funds (*24 CFR 906.15 (2).*

Previous Homeownership: Income-eligible households that have owned a home may qualify to enroll in the program.

Other Eligibility Restrictions: The PHA may establish additional limitations to purchase housing. Such requirements may include evidence of regular income, no past criminal activity, participation in HO counseling programs, or other requirements/restrictions, (*24 CFR 906.15 (d).*

Program Residency Requirement: The homeowner must use the unit as his/her principal residence, (*24 CFR 906.15(b)(*6).

Section 32 Regulatory Restrictions: Davis-Bacon wage rates apply to all rehabilitation and construction activities; except in cases of qualifying non-routine maintenance, (*24 CFR 906.37).*

Recapture restrictions:

- Subsidy
- Gain from Appreciation:
  - If the purchaser resells the home ***within five years of initial purchase***, the PHA must recapture a portion of or its entire subsidy provided to the purchaser (i.e., down-payment, closing cost assistance, PHA subordinate mortgage, and/or below-market financing) to the extent that there are net proceeds.
  - ***After the initial five-year period***, the PHA may recapture some or all of its subsidy provided to the purchaser and may not capture any gain from. This provision must be recorded in title restriction(s), (*24 CFR 906.27(a)(3-4)(c).*
  - The PHA must implement an ***anti-speculation provision*** to recapture, share all or a portion of the gain from appreciation to the extent that there are net proceeds, if the home is resold within five years from the initial purchase. It may not capture gains from appreciation after the initial five-year period.

Use of Proceeds:

A. PHA direct sales

B. PRE sales

- Proceeds must be used to fund replacement housing or further the mission of providing quality affordable housing to income-eligible households. *24 CFR 906.31(a)*
- The PHA may require the PRE to return the net proceeds to the PHA, or permit the PRE to retain the net proceeds for use to further low-income housing purposes. *24 CFR 906.31(b)*

Market Study:

- If the HO Plan permits for acquisition of non-PH for HO, the HO Plan must include a ***Market Analysis*** of the potential purchasers for the HO units.
- If HUD funds are used to build or acquire units, the PHA must demonstrate that a market exists for the units.
- **The HUD Field Office should package new units temporarily put under ACC prior to sale into a development *Acquisition Plan* for review, (*24 CFR 906.41(a)(8)*7).**

Section 32 Regulatory Restrictions:

- Marketing Strategy
- The HO Plan must describe the number of income-qualified current residents interested in purchasing a home and the plan for consultation with residents during implementation.
- Plan to permit the purchase of vacant units by persons *not* currently in PH, receiving Section 8, or on the existing PHA waiting list, the HO program must include an affirmative fair housing marketing strategy (reaching out to members of underrepresented groups, *24 CFR 906.39(d).*

Non-purchasing Residents, ACC units:

- A PHA or PRE selling a PH unit must first offer the unit to the occupying resident. PH residents who are not interested in purchasing their unit or are not eligible, are entitled to a 90-day notice, counseling, relocation expenses, and comparable housing, (*24 CFR 906.23).*
- Displaced residents, non-ACC units, residents of non-PH units acquired for sale, *do not* have to be offered the first chance to purchase the unit.
- The Uniform Relocation Act applies for displaced residents of non-PH units.

Financing Restrictions:

- PHAs may provide financing for all eligible families. However, they must designate funding sources, according to whether the purchaser is a PH or non-PH resident.
- The CFP may be used to provide financial assistance only to PH residents. Other income (e.g., loan repayments, proceeds, program income) may be used to provide financial assistance for non-PH eligible purchasers, *24 CFR 906.5.*

Resident Consultation:

- The PHA must consult with residents of the developments involved and the Resident Advisory Board; *unless* the action is already in the PHA Plan.
- PHAs, which are exempt from the PHA Plan requirement (high performers, deregulated small PHAs, and Moving-to-Work agencies), must conduct the resident consultation (*Section 32 and 24 CFR 906.39 (3)(g).*

Record Keeping:

- The PHA is responsible for keeping and maintaining all relevant records and documentation regarding HO activities.
- The obligation must also be passed on to third-party's assisting in the HO activities (i.e. PRE). The PHA must submit an annual sales report to HUD until all planned sales are complete. Unit records in PIC must be maintained, *24 CFR 906.33.*

Section 8(y):

- Section 8(y) HO assistance may be used in conjunction with a HO program under Section 32, if the family meets the requirements of both programs.
- Section 8(y) is not used in connection with lease purchase programs prior to sale, *24 CFR 906.5).*
- A PHA may also elect to implement a lease purchase program under Section 32, *24 CFR 906.39(a)*8.

II. The Homeownership Plan

Generally, the HO Plan serves as a roadmap for the program's implementation. Specific requirements for the preparation of a HO plan under Section 32 are set out below.

- PHAs ***must*** submit the HO Plan to the HUD Special Applications Center (SAC) in Chicago.
- ***Non high-performing PHAs*** must state their intent to submit a HO plan to HUD in the Annual Plan.
- The ***required items***, along with supporting documentation outlined in 24 CFR Part 906.39, are intended to provide HUD with the necessary information to assess the workability and legality of the proposed program and the PHA's capacity to implement it.

Essential Criteria of a HO Plan:

There are four (4) key criteria HUD uses to assess Section 32 HO Plans:

1. ***Feasibility*:** The program must be practically workable, with sound potential for long-term success. Simply put, the plan should make sense for the PHA to implement in its community. Components include whether there is a sufficient demand for the proposed housing; as well as adequate funding in-place to cover program costs. A PHA should consider:
   - Is there an adequate supply of eligible residents who can afford to purchase a home at the assumed price? Are there sufficient funds to enable purchasers with targeted incomes become homeowners? Generally the SAC will expect at least two eligible families for each home to be sold, based on family composition and income.
   - Can the units be rehabilitated, constructed, acquired, or financed at a reasonable cost?
   - Are partnerships and services in place to ensure long-term success for participants in this project?

2. ***Legality:*** The program is consistent with all applicable federal, state, and local statutes and regulations and existing contracts law, including 24 CFR Part 906.45. The PHA must include a letter from its legal counsel to HUD attesting to the legality of the proposed HO Plan. Sample closing documents must meet federal, state, and local laws. And must include protections against fraud and windfall profits accruing to the seller; including an anti-speculation clause, primary residence requirement, and recapture provision for PHA subsidy.

3. ***Documentation:*** The program must be complete and clear enough to serve as a working document for implementation, and a sufficient basis for HUD review. The plan must be internally consistent and reflect the PHA's careful consideration of its elements. Supporting documentation that substantiates the claims and goals of the program must be included in the submission.

4. ***PHA track record in implementing homeownership programs**:* The PHA, or other entity with substantial responsibility for implementing the HO program, must demonstrate its commitment and capability to successfully implement the HO program and describe successes in related activities (similar HO, modernization or development projects). PRE entities must also demonstrate experience in marketing to and working with income-eligible homebuyers. *The key is to demonstrate the collective capacity of the program participants.*

5. ***Program staff experience:*** Describe the qualifications and experience of staff working the HO or similar programs.

Components of the HO Plan:

In addition to the above-listed criteria, all HO Plans must include: narrative and supporting documentation detailing specific requirements. These requirements include the following, (24 CFR Part 906.39):

A. Method of Sale: Provide a succinct overview of the number of units to be sold and the method of sale (e.g., fee simple, lease-purchase, sale of cooperative share). If the PHA is proposing a lease-purchase project, it should describe the terms of the lease-purchase agreement in this section.

B. Property description: Include a narrative with appropriate supporting documentation (see Section C) that describes in detail the property/properties to be included in the program. Descript specificity will vary according to the type of project being implemented.

(1) ***If the program involves only financing assistance*** to the household purchasing the unit, the PHA needs not specify property addresses, but describe the area(s) in which the assistance is to be used. This includes the physical, socio-economic, and zoning characteristics of the area(s)

(2) ***If the PHA plans to sell existing or newly constructed public housing***, it must describe the property/properties in detail. This includes the (1) project number of the property or (2) street address, if there is no project number, the number of units, unit types and number of bedrooms. Describe the conditions and fair market value of the units.

(3) ***If the PHA wishes to acquire units to sell*** *under the program that will not be public housing,* it must submit an acquisition proposal (24 CFR Part 906.41) for the Local Field Office the HO plan is implemented. (Note: acquisition costs are limited by the housing cost cap limit. Cost cap guidance can be found in PIH Notices available on-line at: http://www.hudclips.org.)

The Acquisition Plan must include:

- ✓ Description of the housing to be acquired, including number of units, unit types, number of bedrooms, and any non-dwelling facilities;
- ✓ PHA certification that the property to be acquired was not or is not being constructed in violation of the Davis-Bacon Act;
- ✓ Description of the general location of the properties to be acquired and, if known, the specific street addresses of the properties;
- ✓ A budget for acquiring the project including relocation expenses, closing costs, and sources of funds;
- ✓ Where sites are identified, an appraisal of the proposed property by an independent, state certified appraiser.
- ✓ An acquisition schedule.
- ✓ Where sites are identified, all available environmental information on the properties.
- ✓ A market study.

C. Repair or rehabilitation:

- For the sale of existing PH units or acquired units that need repair, the HO plan must describe the process for assessing and implementing any repair or rehabilitation to meet federal, state, or local requirements (LBP abatement, accessibility features, 24 CFR Part 906.7).
- Describe the extent of the repair on each property and the estimated costs.
- The Repair Plan must be consistent with the assessment of the physical condition of the property, which is included in the supporting documentation.
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D. Purchaser eligibility and selection:

- The HO Plan must contain a clear description of eligibility criteria governing the program. The PHA may establish priorities for selecting potential homeowners that further the program's goals.
- These priorities may vary according to whether the PHA wishes to mix incomes in the neighborhood or to allow lower income PH residents to become homeowners. However, the PHA must restrict eligibility to 80% AMI corresponding to participant's household size (with exception of offers of the right of first refusal.
- The PHA may add further restrictions; such as minimum income corresponding to household size, employment and credit requirements, down-payment requirements beyond the 1% minimum, prior ownership, HO counseling, and other categories.
- The eligibility requirements must be consistent with the PHA's goals for the HO program. The HO Plan must clearly describe the standards and procedures for processing the HO applications, documentation submitted, and review criteria for selection. Including requirements for income eligibility, owner-occupancy, and financial capacity of potential buyers.
- Note that the applicant's monthly payments for mortgage and housing expenses (i.e., principal and interest, taxes, insurance, maintenance, utilities and other regularly recurring homeownership costs (e.g., condominium fees)) may not exceed 35% of the applicants adjusted income plus any other subsidy used for monthly payments (24 CFR 913).
- The dwelling unit sold to an eligible family must be used as the principal residence of the family.
- If the HO plan allows for participation by families *not* currently residing in PH or receiving Section 8 assistance (or on

the waiting lists), the program must include an ***Affirmative Fair Housing Marketing Strategy***. And describe how the PHA (or PRE) will inform non-PH, income-eligible households of their eligibility to apply. And make special outreach to solicit applications from those in the housing market that are least likely to apply. The HO Plan must clearly identify any PRE and its agreement to comply with the fair housing marketing strategy (24 CFR Part 906.39(d)).

E. Sale and financing: PHAs can make homes affordable to low-income buyers through below-market financing (sale of unit for less than appraised value) and provision of assistance directly to purchasers. In order to protect these forms of subsidy, the PHA should also consider what kinds of anti-speculation, resale, and/or recapture provisions it wishes to implement.

- An ***anti-speculation provision*** limits the amount of gain upon sale the subsidized buyer can realize due to appreciation of the property.
- ***Recapture provisions*** outline the repayment terms of a subordinate mortgage upon the original purchaser's resale of the home.
- ***Resale provisions*** restrict the resale of the home to low-income buyers.
    - The PHA may recapture upon resale of the home a portion or all of PHA-provided subsidy the purchaser received (in the form of down-payment, closing cost, subordinate mortgage, or below-market financing) to the extent that there are net proceeds.
    - The PHA may recapture this subsidy if the home is resold. This restriction must be recorded in the appropriate form of title restriction(s).
- The PHA must determine the share it will ***recapture*** according to its goals. And implement an anti-speculation provision to recapture all or a portion of the gain from appreciation, if the home is resold within five years from initial purchase. The PHA must determine the portion of its sharing in appreciation according to its stated goals. This provision must be recorded as a deed restriction or a restrictive covenant.
- The PHA may establish a ***resale restriction***. This can be recorded in a deed running with the land and requires that the home be resold for an established period of time (e.g., 30 years) to an income-eligible purchaser. If the PHA chooses to implement this restriction, it should include a clause whereby the PHA will purchase the home upon resale if the seller cannot reasonably obtain an income-eligible purchaser. This section of the HO plan should fully describe the kind of subsidies (if any) to be provided to purchasers and the terms of recapture. It should include a description of the type(s) of assistance being provided, how much is being provided to each income tier, who is providing it, as well as the requirements and restrictions that must be met.
- The ***financial terms*** of loans and/or grants, front and back-end ratio restrictions for first mortgages, anticipated sales prices, and resale and recapture restrictions should be fully described. This includes:
    - Subsidy limits (which should vary based on household income and size), terms of forgiveness of loans, availability of local grants/loans such as HOME or CDBG, and sources of funds for these subsidies.
    - The supply, demand, and condition of the housing units in consideration.
    - If market values are rising, the PHA may choose to collect a greater portion of the gain from appreciation upon resale within the first five years.
    - If selling homes in a weak market, the PHA may want to allow a homeowner to realize a greater portion of the

- appreciation on the home upon resale.
- Where the PHA is providing a subsidy to the purchaser, it should consider whether it would like to recapture the entire amount provided or forgive the subsidy over time.

- The HUD website provides tools and sample models to calculate ***subordinate mortgage and below-market financing*** amounts and establish anti-speculation and recapture provisions.

F. Consultation with residents and purchasers: Consistent with all mixed-finance transactions, the PHA and its partners must work closely with the residents throughout the planning and implementation of the program.

- If the PHA intends to sell existing PH, the PHA must provide a description of input obtained during the resident consultation process; as well as, a plan for consultation with purchasers during the implementation stage.
- Describe consultation with the residents affected and/or with Resident Advisory Board (required by the PHA Plan) with regard to submission of a HO plan to HUD.
- High performer PHAs, Moving-to-Work agencies, or those defined as small PHAs, are *exempt* from this Agency Plan requirement, *but* are obliged to carry out and describe resident consultations as part of a Section 32 HO program.
- The consultation process is a way of conducting marketing and outreach for the program. Information garnered from this process is a key factor in determining the need for and interest in a HO program.
- This consultation may help shape program and building design, amenities, timing, and the need for complementary programming (e.g., credit counseling, HO training, property maintenance training, etceteras).
- This feedback also aids the assessment of the overall feasibility of the program, the likely absorption rate of units sold, and the identification and targeting of likely purchasers.
- PHAs selling existing PH units must include supporting documentation to the HO Plan including agendas, sign-in sheets and minutes from resident and/or community-wide meetings that specifically addressed the proposed HO program.

G. Counseling: Describe plan regarding HO counseling for eligible purchasers. PHAs do not have to establish counseling as a condition of eligibility. However, given the challenge and complexity of the transition from renting to homeownership, HUD strongly recommends the Plan include on-going homeownership counseling and training programs.

- PHAs using HOPE VI grants for their HO Plan, the documentation of resident consultation for the HOPE VI application is sufficient.
- The best programs provide a continuum of service to the households including the provision of counseling services to prospective homebuyers (e.g. credit enhancement, budgeting, maintenance responsibilities, etc.), the provision of direct assistance such as a soft second mortgage, and on-going post-purchase counseling.
- Assisting new owners to understand and manage budgeting, maintenance and repairs, and other responsibilities of HO is critical. This is a good opportunity for PHAs to partner with local non-profit agencies that provide home-buyer counseling services.
- PHAs should describe the experience of the counseling provider, the length of counseling course, topics covered, requirements for successfully completing the course, and funds (if any) allocated for provision of counseling.

H. Sale via Purchase and Resale Entity (PRE): Section 32 permits the sale of units directly to low-income public or non-PH residents or to a PRE, which in turn must resell them to low-income households. A Resident

Management Council (RMC) may qualify as a PRE. If a PRE is used, the HO Plan must include the firm's qualifications, marketing plan, and a description of that entity's responsibilities as well as meeting the requirements of 24 CFR Part 906.19 (or will be met in a timely fashion).

The PRE must meet the following requirements:

- Demonstrate legal and practical capacity;
- Sign written agreement specifying rights and responsibilities of the PHA and PRE;
- Provide assurances regarding compliance with the program;
- Implement deed restrictions on acquisition and resale of units;
- Protect against fraud and/or misuse;
- Provide limitations on PRE administrative, overhead, and compensation/profit;
- Produce evidence of adequate record keeping and reporting;
- Ensure non-discrimination against eligible purchasers;
- Sell units only to low-income households; and
- If the PRE cannot sell the units within five years, must agree to transfer ownership of units back to the PHA.

I. Non-purchasing residents:

1. ACC Units. The PHA must offer the first right of refusal to eligible residents PH units that are to be sold. While the resident occupying the unit does not have to meet the low-income requirement, he/she does need to satisfy any other eligibility requirements that the PHA may choose to establish for its HO project. If the PH resident does not exercise the right of first refusal, the PHA must notify the resident of his/her relocation rights, including the right to comparable housing.

2. Non-ACC Units. PHAs offering for sale occupied non-PH units, must offer residents of those units relocation assistance (Uniform Relocation Act (URA), which differs in some respects with the protections afforded PH occupants displaced by a Section 32 program. The HO plan must include a relocation plan and a description of how it will fully comply with these protections for non-purchasing residents. The PHA should allocate sufficient funding to cover these anticipated expenses.

J. Sale proceeds:

- The PHA should provide an estimate of the sale proceeds (i.e. amount a PHA may recapture of its subsidy to purchasers plus the gain from appreciation upon purchaser resale of units) and an explanation of how the proceeds will be used.
- The PHA must direct proceeds for purposes relating to low-income housing that are in accordance with its HO Plan. Such program funds may be used to provide financial assistance to income-eligible, non-PH and/or PH residents.
- Examples of eligible uses are: to fix up and administer HA-owned low-income housing, to acquire ACC or non-ACC units, to provide homebuyers help in meeting temporary mortgage arrearages, to provide non-amortizing soft second mortgages, to offer housing counseling, and to provide down payment or closing cost assistance.
- The plan should explain the nature of the uses to which proceeds will be put. If the HO Plan utilizes a PRE, the PHA may opt to have the PRE return sale proceeds to the PHA or permit the PRE to use them for low-income housing purposes.

K. Records, Accounts, and Reports

- Provide a description of the PHA's (and PRE's, if applicable) record- keeping, accounting, and reporting procedures to be used.
- The PHA is "responsible for the maintenance of records (including sale or financial records) for all activities incident to the implementation of the HUD-approved homeownership program."
- If a PRE is used, the PHA must ensure that the PHA's obligations are passed on to the entity and any other third parties involved in the program.

- All books and records are subject to inspection and audit by HUD and the General Accounting Office (GAO). Specifically, the PHA or PRE should keep a record of:
  - Minutes, agendas, and sign-in sheets from resident meetings regarding the HO Plan,
  - Any MOUs regarding the implementation of the HO Plan,
  - Procurement of and contracts with partners,
  - Files for each purchaser including pay stubs, tax returns, credit report, log of consultations, action plan, verification the home meets housing quality standards, down payment and closing costs, and any other relevant information, and
  - Relocation notices to PH residents (if applicable).
- The PHA must report their sales through the Public and Indian Housing Information Center (PIC) and to the Field Office each year in the Annual Plan until all planned sales are completed.

L. Budget: The PHA's plan must provide a comprehensive budget estimate that:

- Identifies all of the sources of funds (e.g. federal, state, local, private lenders, homeowner equity, etc.) for sale of the PH or acquired non-PH units.
- Include under budget uses any anticipated rehabilitation or repair costs based upon information derived from the physical assessment of the properties, any PHA financing assistance, and costs for implementing the program. *[Section E, Sale and Financing should detail the PHA's restrictions and procedures for direct financing to the purchaser.]*
- The budget uses need to include soft costs such as staff time, administration, relocation, counseling, outreach, bank charges, sale-related legal expenses, developer's fee, and construction and architect's fee.
- he budget and the accompanying narrative should demonstrate efficient use and sufficient leveraging of funds, as well as the PHA's ability to proceed once HUD approval is secured.

M. Timetable: Critical to the HO Plan is a realistic timetable for implementation of the proposed program. The PHA is expected to estimate how many units it plans to sell each year and the timing of financing to support that plan. At a minimum, the schedule should include the major milestones associated with the plan:

- Resident meetings and other consultations;
- When each source of funding will be secured;
- Estimates by year of the number of units to be:
- Acquired and/or
- Rehabilitated and
- Sold
- The marketing and outreach process; and
- The duration and provision of HO counseling and training.

III. Support Documentation

PHAs submitting Section 32 HO Plans should provide HUD the following support documentation:

1. PREs. If the PHA is utilizing a PRE, the plan should include the following:

- Organizational documents of the PRE;
- Regulatory and Operating Agreement between the PHA and PRE regarding the provision of operating subsidy and operation of public housing units prior to sale of the units to purchasers;
- Management agreement and plan;
- Financing documents (if any);
- Operating pro forma describing use of operating subsidy during period of PRE's ownership;

- Mixed-finance ACC Amendment governing these units;
- Deed restriction or covenant running with the land assuring that the PRE will operate the units in accordance with public housing laws and regulations including 906.19 of Section 32 regulations;
- Bond for repairs or proof of insurance to cover any damage to the property during the period of PRE ownership and operation; and
- Any other materials required by HUD.

2. Physical Assessment.

- The PHA should include an assessment of the physical condition of the property, based on the standards in 24 CFR Part 906.7.
- In order to be able to sell any property under the HO program, the property must first meet local code requirements (and/or Section 8 HAP standards, 24 CFR Part 882).
- The property must also meet the requirements for elimination of lead paint hazards (24 CFR Part 35, subpart C), as well as any physical accessibility issues (24 CFR Part 8) if buyer requests.
- An architect, cost estimator, or engineer with significant related experience in the construction trades and in cost estimating should prepare this plan.

3. Feasibility. A statement demonstrating the feasibility of the program based on an analysis of data including purchase prices, costs of repair and/or rehabilitation, accessibility costs (if applicable), homeownership costs, family incomes, availability of financing, and the extent to which there are eligible families who are expected to be interested in purchase. Typically, the SAC looks to see if a PHA can identify eligible purchasers that number twice the amount of units it is proposing to sell. (See Appendix 5, Feasibility Took, SAC website.

4. PHA performance in homeownership. The PHA (and PRE, if applicable) should submit a statement outlining its experience and ability to successfully carry out the HO program, as well

as information on the administration of the program. A PHA that has not previously implemented a HO program for low-income households must submit a statement describing its experience in implementing PH modernization and development projects 24 CFR Part 941 and 24 CFR Part 968).

5. Nondiscrimination certification. The PHA (or PRE) must certify that neither it nor any other entity that may assume substantial responsibilities for implementing the program will discriminate in its administration of the HO Plan, in accordance with the Fair Housing Act, Title VI of the Civil Rights Act of 1964, Executive Order 11063 and implementing regulations. This certification refers to Section D, Purchaser eligibility and selection.

6. Legal opinion. The HO Plan must include an opinion from counsel indicating that it has reviewed the program and finds its consistent with all applicable requirements of federal, state, and local law, including regulations and statutes. At a minimum, legal counsel must certify that the HO Plan documents fully incorporate the sale to a low-income family, the resale revert, and the restriction of use of resale proceeds (see 24 CFR Part 906.41(f) and 24 CFR Part 906.27).

7. Board resolution. Submit a copy of the PHA's Board of Commissioner's resolution evidencing its approval of the program.

8. Section 8(y). If the PHA plans to provide families with assistance under the Section 8(y) HO option in connection with the Section 32 HO project, the PHA must submit a certification that they will comply with the requirements of the Section 8(y) statute and implementing regulations. The HO Plan should document how the PHA expects to deal with situations where the eligibility for Section 8(y) may reach its maximum duration (for those households that are limited to 10 or 15 years of such assistance) before the end of the mortgage term.

9. **A narrative description of the deed or title restrictions** recording the principal residence requirement, the recapture provisions, and the

gain from appreciation sharing if the home is resold within the first five years (24 CFR 906.69(n)

10. Other information. Any other information as may be reasonably required for HUD review of the program.

PHAs acquiring non-PH for HO must submit (24 CFR Part 906.41):

The PHA must submit an ***Acquisition Proposal*** to the HUD Field Office for its approval before the Section 32 HO Plan can be approved. The Acquisition Proposal must contain the following:

1. Property description. A description of the properties, including the number of housing units, unit types, number of bedrooms, and any non-dwelling facilities on the properties to be acquired.

2. Certification. Housing units constructed under a contract or agreement to be sold to the PHA, must submit:

- Developer/owner certification that they complied with all Davis-Bacon wage rate requirements (906.37), including all required contractual provisions and compliance measures, and
- By the PHA that it received all applicable HUD environmental approvals and release of funds before executing the contract or agreement (24 CFR 906.47(d).

3. Site information. Submit a description of the proposed general location of the properties to be acquired, or where specific properties have been identified, and street addresses of the properties.

4. Property costs. Submit the detailed budget of costs for acquiring the properties, including relocation, closing costs and identification of the sources of funding.

5. Appraisal. Submit an appraisal of the proposed properties by an independent, state-certified appraiser (when the sites have been identified).

6. Property acquisition schedule. Submit a copy of the PHA acquisition schedule.

7. Environmental information.

- The environmental information required by 24 CFR 906.47(f), or where HUD will perform the environmental review under 24 CFR part 50, or a statement identifying the responsible entity that will perform the review under 24 CFR part 58.
- This does not apply to a property where a contact or agreement for sale to the PHA has already been executed and HUD has already given prior approval following environmental review (24 CFR Part 50).
- Where the PHA's HO program is submitted for approval to HUD and contemplates acquisition of properties not identified at the time of submission or approval, 24 CFR 906.47(e) applies.

8. Market analysis. Submit an analysis of the potential market of eligible purchasers and estimated values of the HO units. This market analysis is in addition to the program budget (see Appendices 3 and 5 on SAC website).

9. Additional HUD-requested information. Submit any other information needed for HUD to determine proposal approval.

10. Cost limit. The acquisition cost of each property is limited by the housing cost cap limit.

- Those PHAs acquiring *PH* for HO must package Acquisition Plans into standard development and modernization proposals submitted to the HUD Field office. Construction and substantial rehabilitation of public housing units is not covered under Section 32.

HUD Approval:

- PHAs must submit an original and two copies of their complete Section 32 HO Plans to the SAC with a copy to their HUD Field Office. Applications filed through PIC do not have to be provided on paper as well.
- The HUD-approved HO plan and the accompanying supporting documentation will be incorporated into the Implementing Agreement.
- Additional HUD approval is required if it wants to modify any of the terms contained in the Agreement or in the HUD-approved plan. Such as: adding or removing elements of the eligible purchaser qualification or changing the terms of subordinate financing.
- However, a change to the number of units to be sold must be submitted to HUD with a revised plan.

OFFICE OF PUBLIC HOUSING HOMEOWNERSHIP SEMINAR JUNE 2006

The HUD San Antonio Office of Public Housing will be conducting a Homeownership Seminar to interested Non-Profit organizations, related housing industry groups, local/state/federal government agencies, and Public Housing Authorities.

The following tentative topics and successful agencies conducting homeownership programs will be discussed:

- PHA affiliated nonprofit entities Homeownership programs (mixed-financing ventures, LITHC, HOME, etceteras)
- Section 32 (Public Housing) Homeownership Program (former 5(h) program)
- Section 8 Homeownership program
- Family Self-Sufficiency and Homeownership initiatives
- Best Practices (the how-to)
- Q&A

Please be aware that limited space is available. We encourage you to make an early reservation to participate. Please complete the below form to RSVP and fax to (210) 472-6816, or call Robbie Losoya at (210) 475-6865.

San Antonio Office of Public Housing Homeownership Seminar

June 14, 2006

Agency Name: ______________________________

Name: _____________________________________
First **Middle** **Last**

Address: __________________________________

Phone Number: _____________________________

Number of Reservations: ___________________

List of participants:

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San Antonio Office of Public Housing Homeownership Seminar

June 14, 2006

Agency Name: ______________________________

Name: _____________________________________
First **Middle** **Last**

Address: __________________________________

Phone Number: _____________________________

Number of Reservations: ___________________

List of participants:

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